

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STUART KROHNENGOLD, et al.,

Plaintiffs,

v.

NEW YORK LIFE INSURANCE CO., et al.

Defendants.

Case No. 1:21-cv-01778

ORAL ARGUMENT REQUESTED

NOTICE OF MOTION TO DISMISS THE AMENDED COMPLAINT

PLEASE TAKE NOTICE that Defendants New York Life Insurance Company, the Fiduciary Investment Committee of the New York Life Insurance Employee Progress Sharing Investment Plan, the Fiduciary Investment Committee of the New York Life Insurance Agents Progress Sharing Investment Plan, Katherine O'Brien, Anthony R. Malloy, Yie-Hsin Hung, Arthur A. Seter, Scott L. Lenz, and Robert J. Hynes (collectively, "Defendants"), by their undersigned counsel, will move this Court, on a date and time to be determined by the Court, for an Order dismissing with prejudice the Amended Complaint due to lack of subject-matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1) and for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6). In support of their Motion, Defendants rely on the Memorandum in Support of Defendants' Motion to Dismiss the Amended Complaint, the Declaration of Dave Rosenberg in Support of Defendants' Motion to Dismiss the Amended Complaint and the exhibits attached thereto, filed concurrently herewith, and the Declaration of Maria Mauceri in Support of Defendants' Motion to Dismiss the Amended Complaint, also filed concurrently herewith.

Dated: July 16, 2021

Respectfully submitted,

/s/ James O. Fleckner

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